

Supporting Statement for Paperwork Reduction Act Submission
Depredation Orders for Double-Crested Cormorants
50 CFR Parts 21.47 and 21.48
OMB control number 1018-0121

The following information is provided as part of a request to revise an OMB clearance number for a collection of information associated with two depredation orders for double-crested cormorants (DCCOs), an overabundant fish-eating bird. One allows commercial freshwater aquaculture producers in 13 States to take DCCOs at their facilities without a Federal permit (see 50 CFR 21.47 in final rule). The other depredation order authorizes State fish and wildlife agencies, Tribes, and the Wildlife Services program of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), to take DCCOs in 24 States without a Federal permit when public resources (fish, wildlife, plants, and their habitats) are being damaged by DCCOs (see 50 CFR 21.48 in final rule). These depredation orders necessitate certain reporting and monitoring requirements. These requirements are described below.

Section A. Justification

1. Explain why you need to collect this information. Identify any legal or administrative requirements that necessitate this information collection.

This information collection is associated with regulations implementing the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 et seq.). The MBTA implements four treaties concerning migratory birds which the United States has signed with Canada, Mexico, Japan, and Russia. The treaties preserve and protect various species of birds. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, their parts, nests, or eggs. In response to these prohibitions, Fish and Wildlife Service (FWS) promulgated regulations to authorize the take of DCCOs, under certain circumstances. The regulations at 50 CFR 21.47 authorize aquaculture producers in 13 States to take DCCOs when the birds are found committing or about to commit depredations on aquaculture stocks.

Under the MBTA, it is the Service's responsibility to ensure that migratory bird populations do not become threatened or endangered. In order to fulfill our responsibility to conserve migratory birds, we need to be able to estimate how many DCCOs are being taken under the new depredation order. We also need to know that birds are being taken for purposes that are in compliance with the Act.

2. Explain how FWS will use the information. If this is not a new collection, explain how FWS has used the information received.
 - Under 21.47(d)(7) and (8), we require reporting of the take of any migratory birds

species other than DCCOs or of any species protected by the Endangered Species Act. We need this information to monitor the effects of the depredation order on non-target species.

- Under 21.47(d)(9), we require respondents to: keep records consisting of a log that records the date and number of birds killed each month, maintain those records for a three-year period, and annually submit each log to FWS. We need this information to keep track of the number of birds killed for monitoring purposes.
- Under 21.48(d)(7) and (8), we require reporting of the take of any migratory birds species other than DCCOs and of any species protected by the Endangered Species Act. We need this information to monitor the effects of the depredation order on non-target species.
- Under 21.48(d)(9), we require agencies to notify us each year of their intent to act under the order and to notify us, in advance, of any control actions that would take more than 10 percent of a breeding DCCO population. Note: The advance notification requirement was added as a result of public comments on the proposed rule; it is a new requirement in this final rule. We need this information so we are aware of which agencies are taking actions under the order and so we can ensure activities are conducted in compliance with the purpose of the order.
- Under 21.48(d)(10) and (11), we require agencies to keep detailed records of all activities carried out under the order and to report these to us annually. We need this information so that we can keep track of agency activities and monitor how many DCCOs are killed each year.
- Under 21.48(d)(12), we require agencies to provide us with specific information regarding control activities at breeding colonies and to include this information, if applicable, in their annual reports. We need this information to assess the impact of this program on DCCO populations and to ensure that agencies are conforming to the terms, conditions, and purpose of the order.

Overall, we will use this information to monitor take of DCCOs by aquaculture producers and agencies to ensure compatibility with the long term conservation of DCCOs and other migratory birds.

3. Does this information collection use automated, electronic, mechanical, or other technological techniques? Provide the reasons for the decision to adopt this means of collection. Describe any consideration you gave to using information technology to reduce burden on the public.

Respondents may choose to submit report or records via standard mail or electronically. We estimate that 25% will be submitted electronically. In FWS's September 2002 Government Paperwork Elimination Act (GPEA) report, we included an entry for current OMB control number 1018-0097, which applies to the depredation order authorized under 50 CFR 21.47. In that entry, we noted that we are considering making electronic fillable forms available to respondents, and we stated, "We will review each year for

possible automation of this collection. At present, we recommend electronic recordkeeping for participants and allow electronic submission of those records. Not all participants, however, choose to use electronic means to keep records. We will employ new technologies as the become available.” The same is true for the public resource depredation order (50 CFR § 21.48).

4. Describe efforts to identify duplication. Show why similar information already available cannot be used or modified.

This information collection is associated with a new regulation and is not being gathered elsewhere, except under existing regulations at 50 CFR § 21.47. These existing regulations will, however, be replaced when the final rule is published.

5. If the collection will have a significant impact on small entities, such as small businesses, describe methods used to minimize burden on them.

We do not expect this information collection would have a significant impact on small entities. The information will be collected by individual aquaculture producers (under 50 CFR § 21.47) and State fish and wildlife agencies, Tribes, and USDA APHIS Wildlife Services (under 50 CFR § 21.48). Under § 21.47, an estimated 2,227 individuals and small businesses could exercise the privileges of the depredation order, but we expect only 900 will do so. Therefore, only 900 will be impacted by these information collection requirements. This is a relatively small number of affected individuals and entities, and the time required to collect the information is minimal. Under § 21.48, only State, Tribal, and Federal agencies will collect information; therefore no small entities will be affected by the information collection.

6. Describe the consequences to Federal programs or policies if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Not conducting this information collection would compromise the Fish and Wildlife Service’s ability to conserve DCCO populations in an informed and responsible manner and could consequently jeopardize the health of DCCO populations in the United States. This would lead us to violated our trust responsibility under the Migratory Bird Treaty Act.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no such special circumstances.

8. Cite and provide a copy of the 60-day Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received on the 60-day notice, and describe actions taken by FWS in response to those comments. Specifically address comments received on cost and hour burden. Describe your efforts to consult with persons outside of FWS to obtain their views on the availability of data; frequency of collection; clarity of instructions, disclosure, or reporting format; and data elements to be recorded, disclosed, or reported. Consultation should include obtaining their views on the amount of burden to be imposed and ways to minimize the burden. If circumstances prevent this consultation, describe them.

The proposed rule, which solicited public comment on this information collection for 60 days, was published in the Federal Register on March 17, 2003 (68 FR 12653). OMB approved the collection of information associated with the proposed rule on May 13, 2003. Since that time, we have added one information collection burden (advance notification; see 50 CFR 21.48(d)(9) of the draft final rule) on the public to the draft final rule for this action. This addition was based on public comments on the proposed rule. Of the 9,707 public comments we received on the proposed rule, 85 percent were opposed to the proposed rule. Many of those who were opposed stated a preference that we continue the current system of issuing depredation permits. This would require that we evaluate each DCCO control action in advance. Some of the comments were particularly concerned with the ability of agencies, under the public resource depredation order, to take a significant number of DCCOs without our prior review. Thus, we sought to alleviate this concern by adding the advance notification clause to the public resource depredation order in 50 CFR 21.48(d)(9). The public comments on the proposed rule are addressed in more detail in the preamble to the draft final rule.

9. Explain any decision to provide a gift or payment to respondents, other than remuneration of contractors and grantees.

No gifts or payments are being provided.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or policy.

We will protect confidentiality to the extent consistent with the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a).

11. Provide justification for any questions of a sensitive nature. Include the reasons

why the questions are necessary, the specific uses for the information, the explanation given to respondents, and steps taken to obtain respondents' consent.

No sensitive questions are being asked.

12. Provide estimates of the hour burden of the information collection. Include an estimate of the dollar value of the burden hours.

The following is our revised estimate of hour burden, which includes the new information collection requirement added to the information collection in 21.48(d)(9) of the draft final rule.

Overall, we estimate that 960 respondents will submit 1,105 responses annually to the recordkeeping and reporting requirements associated with these depredation orders. Each response will require an average of 3 hours and 40 minutes (3.67 hours) to complete, for a total of 4,055 hours per year for all of the information collection and recordkeeping requirements in the final rule. We estimate that the average wage of the individuals collecting the information is \$30.00 per hour and, thus, the dollar value of the total annual hour burden is \$121,650.

Estimated total annual number of respondents	960
Estimated total annual number of responses	1,105
Estimated number of hours required for each response	3.67
Estimated number of total annual burden hours	4,055
Estimated hourly wage	\$30.00 per hour
Estimated dollar value	\$121,650

For each specific information collection requirement imposed by these depredation orders, we estimate the following:

CFR citation	Respondents	Annual number of responses	Number of hours per response	Annual burden hours	Dollar value
21.47(d)(7), (8) ¹	900	50	.5	25	\$750
21.47(d)(9) ²	900	900	2	1,800	\$54,000
21.48(d)(7), ³	60	10	.5	5	\$150

(8) ³					
21.48(d)(9) ⁴	60	75	3	225	\$6,750
21.48(d)(10) ⁵	60	60	20	1,200	\$36,000
21.48(d)(12) ⁶	60	10	80	800	\$24,000

¹ = This citation was previously 21.47 (d)(7) in proposed rule

² = This citation was previously 21.47 (d)(8) in proposed rule

³ = This citation was previously 21.48 (d)(7) in proposed rule

⁴ = This citation was previously 21.48 (d)(8) in proposed rule

⁵ = This citation was previously 21.48 (d)(9) in proposed rule

⁶ = This citation was previously 21.48 (d)(11) in proposed rule

13. Provide an estimate for the total annual non-hour dollar cost burden to respondents or recordkeepers. Do not include the cost of burden hours described in items 12 and 14.

We do not expect there to be any non-hour dollar cost burden to respondents or recordkeepers. There is no application fee to participate in the depredation order, and the recordkeeping and reporting requirements would not necessitate the purchase of any new equipment.

14. Provide estimates of the annual cost to the Federal Government. Include a description of the method used to estimate cost, which should include quantification of hours, operational expenses, and any other expense that would not have been incurred without this collection of information.

Number of Federal Government entities involved	40 (24 USDA Wildlife Services state programs, 10 FWS National Fish Hatcheries, 5 FWS regional offices, 1 FWS Washington office)
Estimated hours	1,600 (40 hours per entity)
Estimated salaries	\$48,000 (\$30 per hour x 1,600 hours)
Estimated operational expenses (paper, postage)	\$4,000 (\$100 per entity)
Total annual cost to Federal Government	\$52,000

Under the information collection submission approved by OMB in May 2003 (1018-

0121), we estimated that 40 Federal Government entities will be involved with the public resource depredation order (24 USDA Wildlife Services state programs, 10 FWS National Fish Hatcheries, 5 FWS regional offices, and the FWS Washington office). We estimated that each entity will spend approximately 40 hours on this information collection for a total of 1,600 hours. At an estimated wage of \$30 per hour, salary expenses amount to \$48,000. We estimated that operational expenses will be \$100 per entity, or \$4,000 for all 40 entities. Thus, we estimated the total annual cost to the Federal Government to be \$52,000. The additional burden in the draft final rule will not affect these costs.

15. Provide the reasons for any program changes or adjustments reported in items 13 or 14 of OMB 83-I.

In May 2003, we received an OMB approval number of 1018-0121 for information collection associated with the proposed rule. Based on public comments on the proposed rule, we added an information collection requirement (advance notification; see 50 CFR 21.48(d)(9) in the draft final rule) to the final rule. Because of that additional information collection requirement in the final rule, we are submitting a revision to the previously approved collection. The additional information collection requirement would add 165 hours to the currently approved total annual burden hours for this collection. Changes in item 13 of OMB 83-I are based on recalculations associated with the final rule.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Not applicable. The results of this information collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable. We intend to display the expiration date for OMB approval on the information collection.

18. Explain each exception to the certification statement identified in item 19 of OMB 83-I.

Not applicable. No exceptions were identified in item 19.

Section B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.